

May 23, 2012

**VIA ELECTRONIC FILING**

Ms. Marlene Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Re: WC Docket No. 11-42 - Lifeline and Link Up Reform and Modernization  
WC Docket No. 03-109 - Lifeline and Link Up  
CC Docket No. 96-45 - Federal-State Joint Board on Universal Service  
WC Docket No. 12-23 - Advancing Broadband Availability Through  
Digital Literacy Training  
**NOTICE OF EX PARTE PRESENTATION**

Dear Ms. Dortch:

On May 23, 2012, F.J. Pollak, President and Chief Executive Officer, TracFone Wireless, Inc. ("TracFone"), Javier Rosado, Senior Vice President - Lifeline Services, TracFone, and undersigned counsel on behalf of TracFone, met with Angela Kronenberg, Legal Advisor to Commissioner Mignon Clyburn. During the meeting we discussed certain issues before the Commission in the reconsideration phase of the above-captioned Lifeline Reform and Modernization proceeding.

Specifically, we discussed the requirement that, commencing June 1, 2012, applicants for Lifeline-supported service in states which do not allow Eligible Telecommunications Carriers ("ETCs") to access state program-based eligibility databases must produce documentation that they are enrolled in qualifying programs. Consistent with prior filings in this proceeding, including TracFone's petition for reconsideration, we explained why this requirement, commonly referred to as "full certification," would do little to prevent enrollment in Lifeline programs by persons not qualified for Lifeline support. However, the requirement will create significant barriers which would prevent thousands of qualified low-income households from completing the enrollment process and receiving Lifeline benefits. In addition, we explained that if the full certification requirement is not reconsidered, then its implementation should be postponed for one year to afford Lifeline providers and state governments reasonable periods to enter into suitable arrangements which would allow for access to state databases for the limited purpose of verifying consumers' Lifeline eligibility. In this regard, we explained that TracFone has been working with state governments for the purpose of establishing such arrangements. Significant progress is being made. However, this process will take many months to complete and those arrangements will not be in place on June 1, 2012.

We also discussed TracFone's request on reconsideration that the definition of usage for purposes of the de-enrollment for non-usage rule codified at 47 C.F.R. 54.407(c) be modified to include receipt of additional minutes and SMS text messaging. We explained that TracFone requires that its Lifeline customers have their handsets charged and turned on so that each month's allotment of additional Lifeline-supported minutes can be received. Charging the

phones and having them turned on are overt acts which signify customers' intent to continue to participate in Lifeline. We also described the reasons why SMS text messaging should be considered usage for Lifeline de-enrollment purposes irrespective of whether SMS text messaging is a Universal Service Fund-supported service. For many Lifeline customers, as well as for non-Lifeline customers, SMS text messaging is used as a real time communications alternative to voice telephone calls. In addition, for thousands of hearing-impaired customers, many of whom are Lifeline customers, SMS text messaging is the most practicable, efficient means for engaging in telephonic communications, both with other hearing-impaired persons and with non-hearing-impaired persons.

In response to a question from Ms. Kronenberg, we described the record on this issue. One commenting party -- Sprint Nextel -- agreed that the definition of usage should be expanded to include SMS text messaging. Only one party -- the National Telecommunications Cooperative Association -- opposed expansion of the usage definition to include receipt of additional minutes. NTCA's opposition was based on the incorrect premise that Lifeline is not to support devices. TracFone's request that usage include receipt of minutes is based on how consumers demonstrate their intent to remain enrolled in Lifeline and to use the service, not on the notion that their devices should be supported.

Finally, we discussed TracFone's petition for declaratory ruling or, in the alternative, for waiver of Section 54.410(f) of the Commission's rules. That rule requires that all enrolled Lifeline customers re-certify their eligibility between June 1, 2012 and December 31, 2012. TracFone has already sent re-certification notices in calendar year 2012 to more than one million enrolled customers, and has de-enrolled about 270,000 of those customers, primarily for failure to respond. It would be burdensome and annoying to those customers who did respond to those requests to receive another re-certification request within months -- in some cases, within days or weeks, of their prior response. Moreover, unlike other ETCs, TracFone has always required all of its enrolled customer base to re-certify annually that they are head of household and receive Lifeline service only from TracFone. Similarly, customers who enroll in TracFone's Lifeline program between April 1, 2012 and June 1, 2012 should not be required to re-certify their continuing eligibility for Lifeline prior to the one year anniversary of their enrollment.

During the meeting, we provided Ms. Kronenberg with a written presentation and with letters filed by Members of Congress and by a state commission in support of postponing the full certification requirement. Copies of the presentation and the letters are enclosed herewith.

Pursuant to Section 1.1206(b) of the Commission's rules, this letter is being filed electronically. If there are questions, please communicate directly with undersigned counsel for TracFone.

Sincerely,



Mitchell F. Brecher

Enclosures

cc: Ms. Angela Kronenberg

# Enclosures

TRACFONE WIRELESS, INC.

LIFELINE AND LINK UP REFORM AND  
MODERNIZATION  
WC DOCKET NO. 11-42

FCC Meetings  
May 23<sup>rd</sup> & 24<sup>th</sup>, 2012

# Mandatory Documentation of Program-Based Eligibility (“Full Certification”)

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- Access to Lifeline eligibility databases is the most reliable, efficient way to prevent enrollment in Lifeline by persons not qualified to receive Lifeline benefits.

## Mandatory Documentation of Program-Based Eligibility (“Full Certification”)

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- The sooner access to such databases is available (whether state or federal), the better it will be for the Lifeline program and for the intended beneficiaries of the program -- low-income households.

# Mandatory Documentation of Program-Based Eligibility (“Full Certification”)

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- Requiring applicants to produce documentation of program-based eligibility (so-called “Full Certification”) will cause a sharp decline in enrollments.

# Mandatory Documentation of Program-Based Eligibility (“Full Certification”)

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- TracFone knows from experience that in full certification states (there are only 7) the percent of consumers who complete the enrollment process drops from more than 70% to around 30%.
- Reasons:
  - 1) documentation not available;
  - 2) no means to deliver documents to ETCs (no access to fax machines, scanners, copiers, computers, etc.)

## Mandatory Documentation of Program-Based Eligibility (“Full Certification”)

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- No basis for FCC conclusion that full certification will reduce enrollment by non-qualified persons.

# Mandatory Documentation of Program-Based Eligibility (“Full Certification”)

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- Focus should be on access to state databases and development of a national database.
- TracFone has been working with state departments and agencies to arrange for such access.
- Progress is being made (for example, South Carolina will make database access available soon; other states will take longer).
- Those arrangements take time and cannot be completed by June 1.
- States should be given more time before full certification is required.

# Mandatory Documentation of Program-Based Eligibility (“Full Certification”)

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- Better Solution: Existing requirement that all Lifeline applicants to provide information to verify their identities, including:
  - Full name
  - Residential address
  - Date of birth
  - Social Security No. (last 4 digits)
- Requiring that information enables ETCs to confirm their applicants’ identities and significantly reduces fraudulent enrollment

## Mandatory Documentation of Program-Based Eligibility (“Full Certification”)

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- Members of Congress and state regulators share TracFone’s concern (see letters from Senator Kerry, 31 Members of the House of Representatives, and the Georgia Public Service Commission) So too do minority rights advocates such as the Rainbow Coalition, and consumer advocates.

## Mandatory Documentation of Program-Based Eligibility (“Full Certification”)

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- Full certification requirement should be reconsidered; or at least postponed for a year to afford the industry and the states a fair opportunity to reach agreement on the terms of access to state eligibility databases.

# Mandatory Documentation of Program-Based Eligibility (“Full Certification”)

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- Four months from issuance of Lifeline Reform Order insufficient time for the states and ETCs to implement full certification.
  - ETCs must change internal operating systems (web, IVR, etc).
  - States must address database access and develop suitable arrangements to allow ETCs access in a manner which limits access to verifying Lifeline eligibility and which protects privacy rights.

# Broaden Definition of Usage for Purposes De-Enrollment for Non-Usage

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- Usage Definition Should be Broadened to Include:
  - Receipt of monthly minutes
  - Sending or receiving SMS text messages
- Usage currently includes:
  - Sending and receiving calls
  - Purchasing additional minutes
  - Responding to direct inquiries from ETCs
- Receipt of additional minutes
  - Customers must take an overt act which indicates an intent to use the service --
    - Charging the phone
    - Turning the phone “on”
    - Dialing a code (e.g., 555) to receive minutes
- Texting
  - For many consumers (especially younger consumers) SMS texting is how they use the phone for real time conversations; Texting is a substitute for voice calling.
  - For hearing-impaired, texting is the most convenient way to use their phones to communicate with others.
- The fact that texting is not a “supported service” should not be significant since texting is permitted for other aspects of Lifeline, *e.g.*, to verify continuing eligibility.

# 2012 Annual Re-Certification of Eligibility

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- All Lifeline customers should be re-certified annually, but not twice in the same year.
- Lifeline customers who re-verified their Lifeline eligibility in between January and June 2012 should not have to re-verify until one year later.
  - Customers who do not respond to verification requests are de-enrolled; it is unfair for a customer who responded in (for example) March to be de-enrolled if the customer does not respond to another request a month later, or any time during the same calendar year.
  - For all 2012, TracFone customers are provided with substantially all information required by FCC's rules.
  - Already subject to one-per-household requirement.
  - Re-certifying customers twice in one year is unnecessary and wasteful, especially for companies like TracFone, who since becoming ETCs, have re-certified all of their customers annually, not just a random sample of their customers.
  - TracFone already re-certifies all of its customer—not just a random sample.
- Customers who enroll in Lifeline during 2012, but before June 1 2012, should not have to re-certify their eligibility until one year after the date of their enrollment.
- In 2012, TracFone already has contacted 1 million customers to re-certify. Of those, 270,000 de-enrolled.

# United States Senate

WASHINGTON, DC 20510

March 26, 2012

The Honorable Julius Genachowski  
Chairman  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Dear Chairman Genachowski:

I am writing to commend you on the Commission's recent adoption of rules to modernize the federal Lifeline program and to request a modification in the final order.

The Lifeline program has historically made access to the public telecommunications networks affordable for our neediest citizens. The ability to access healthcare providers, potential and current employers, police and other emergency services and to contact and be contacted by family and friends is critically important to all citizens, particularly those of modest means.

I applaud the many important reforms to the Lifeline program you have approved, including the changes that will enable participating carriers to identify and prevent waste, fraud, and abuse of limited Universal Service Fund resources. The revised verification requirements, non-usage de-enrollment rules, and the establishment of data bases to detect and prevent duplicate Lifeline enrollment will ensure that only qualified persons receive Lifeline benefits to which they are entitled and will protect the resources of the Fund.

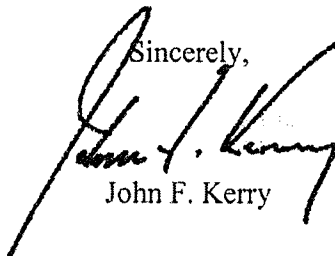
There is, however, one reform that I am asking the FCC to reconsider and modify. I am concerned about the requirement that applicants for Lifeline service produce documentation of their enrollment in Lifeline-qualifying programs such as Medicaid, the Supplemental Nutritional Assistance Program, or the Low Income Home Energy Assistance Program if they reside in states which do not yet allow Lifeline providers to access state program databases. I realize that some states already allow access to such databases and that the Commission is proposing that a national eligibility database be available by year end 2013. However, for the next one to two years, many eligible low income consumers will be unable to enroll in Lifeline as a result of this proposed requirement.

Massachusetts does not currently require consumers to produce such documentation. However, I understand that in the several states which do require such documentation to be provided, far fewer *qualified* needy households enroll in Lifeline than in other states. This is understandable and not surprising. Not only is such documentation often not readily available, even where the documents are in the possession of the Lifeline applicant, without access to copy machines, fax machines, scanners, and Internet access computers, there is no practical way to submit the documentation.

The Honorable Julius Genachowski  
March 26, 2012  
Page 2

With a real solution -- a national eligibility database -- on the horizon, I urge you to postpone implementation of this burdensome requirement for at least one year so that states and providers can work together to enter into arrangements to enable the providers to use state data bases for the limited purpose of determining consumers' eligibility for Lifeline support going forward.

Thank you for your consideration.

Sincerely,  
  
John F. Kerry

Cc: The Honorable Robert McDowell

The Honorable Mignon Clyburn

**Congress of the United States**  
**Washington, DC 20515**

April 23, 2012

The Honorable Julius Genachowski  
Chairman  
Federal Communications Commission  
445 12<sup>th</sup> Street, NW  
Washington, DC 20554

Dear Chairman Genachowski:

As Members of Congress who strongly support the Federal Communications Commission's (FCC) efforts to reform and strengthen the Universal Service Fund's Lifeline program, we write to express our view regarding the specific rulemaking actions approved on January 31, 2012. Specifically, we are concerned with the relatively short timeframe that the FCC has imposed for the implementation of "full certification", the requirement that consumers produce documentation of their participation in Lifeline-qualifying programs. Therefore, we request that the FCC allow service providers until January 2013 to implement the full certification rule.

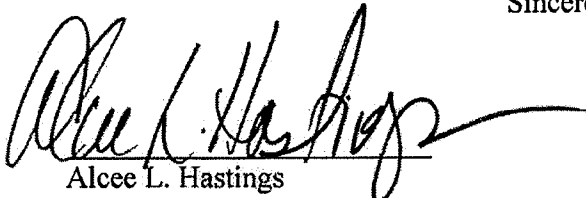
We have closely monitored the Lifeline rulemaking process since it was first announced in November 2010, and are pleased that the FCC shares in our vision of a program that is accessible to qualifying consumers as well as free of waste, fraud, and abuse. While we remain concerned that the full certification requirement may have unintended consequences on Lifeline enrollment and access, we understand the rationale behind this particular rule. Moving forward, we simply ask that service providers be given additional time to prepare for the implementation of full certification.


Currently, many states do not have eligibility databases in place to ensure that enrollees qualify for, and are in true need of, Lifeline services. If full certification is implemented in these states, we fear that current and prospective Lifeline subscribers may lose vital access to telephone service. It is our understanding that this rule is scheduled to go into full effect on June 1<sup>st</sup>. Extending this deadline by seven months to January 2013 will allow carriers to work with state governments and establish databases that can be used to determine eligibility for Lifeline.

As you well know, Lifeline is of great importance to our most economically disadvantaged constituents, who would otherwise be unable to afford basic telephone service. Great strides have been made under your leadership to modernize the program and to make it more accessible to those in need. We are confident that the FCC's reforms will go a long way to make Lifeline stronger and more effective.


Chairman Genachowski, thank you for your consideration of our request to extend the implementation deadline for full certification until January 2013. We appreciate your continued commitment to meeting the communications needs of low-income Americans, and stand ready to assist you as the FCC implements much-needed reforms to Lifeline. If you should have any questions, please do not hesitate to contact us.


Sincerely,


  
Alcee L. Hastings  
Member of Congress

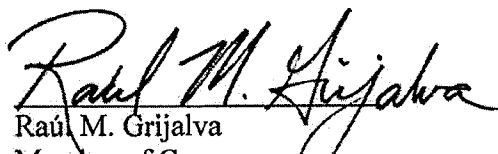
  
Silvestre Reyes  
Member of Congress


  
Wm. Lacy Clay  
Member of Congress


  
Charles B. Rangel  
Member of Congress

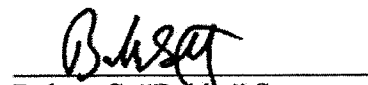
  
Edolphus Towns  
Member of Congress

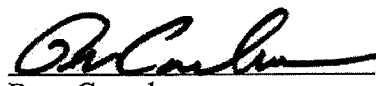
  
Ted Deutch  
Member of Congress

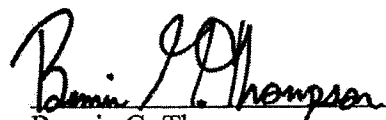
  
Raúl M. Grijalva  
Member of Congress

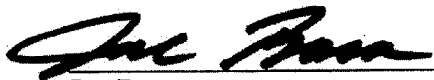
  
Barbara Lee  
Member of Congress

  
Ed Pastor  
Member of Congress

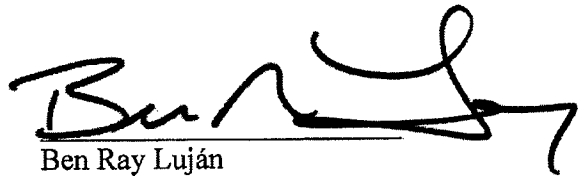
  
Robert C. "Bobby" Scott  
Member of Congress

  
Russ Carnahan  
Member of Congress

  
Bennie G. Thompson  
Member of Congress



Joe Baca  
Member of Congress



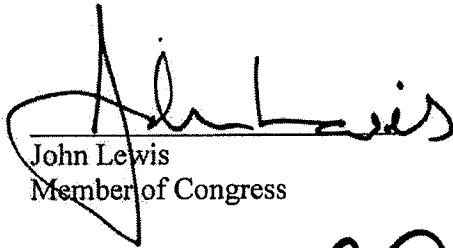
Ben Ray Luján  
Member of Congress



Larry Kissell  
Member of Congress



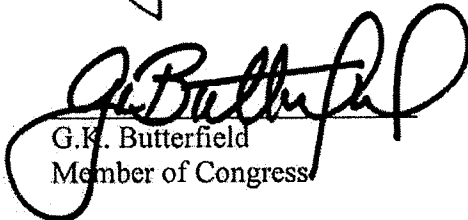
Grace F. Napolitano  
Member of Congress



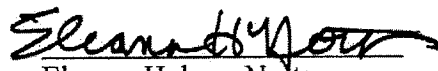
John Lewis  
Member of Congress



Albio Sires  
Member of Congress



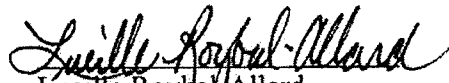
G.K. Butterfield  
Member of Congress



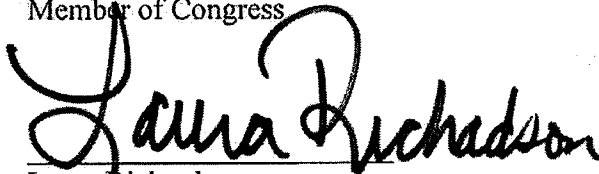
Eleanor Holmes Norton  
Member of Congress



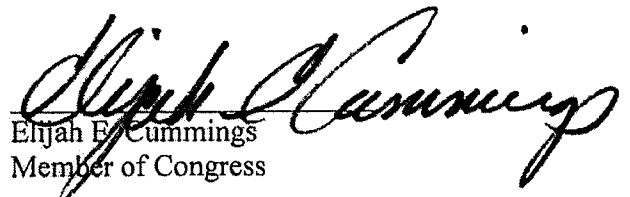
Luis V. Gutierrez  
Member of Congress



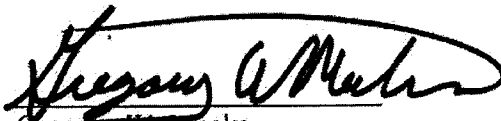
Lucille Roybal-Allard  
Member of Congress



Laura Richardson  
Member of Congress



Elijah E. Cummings  
Member of Congress



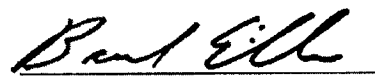
Gregory W. Meeks  
Member of Congress



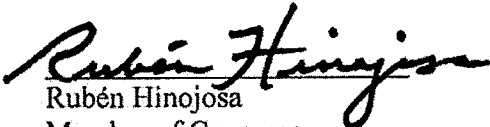
Pedro R. Pierluisi  
Member of Congress





Keith Ellison  
Member of Congress



Brad Miller  
Member of Congress

  
Rubén Hinojosa  
Member of Congress

  
David Price  
Member of Congress

  
Melvin L. Watt  
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May 15, 2012

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

**Re: WC Docket No. 11-42**  
**Lifeline and Link Up Reform and Modernization**

Dear Ms. Dortch:

By this letter, the Georgia Public Service Commission ("PSC") respectfully requests that the Commission postpone for at least one year the requirement that applicants for Lifeline-supported service provide to their Lifeline providers documentation of their enrollment in a qualifying program. That requirement, referred to as "full certification," is set forth at Section 54.410(c)(1)(i)(B) of the Commission's rules and is scheduled to become effective on June 1, 2012. The requirement that applicants provide such documentation will be applicable in those states in which access by Eligible Telecommunications ("ETCs") to state eligibility databases is not available.

The Georgia PSC agrees with the Commission that access to state databases of persons enrolled in qualifying programs is the most reliable way to ensure that only persons enrolled in qualifying programs receive Lifeline benefits and to prevent waste, fraud and abuse of Universal Service Fund resources. In the period following issuance of the Commission's Lifeline Reform Order, the Georgia PSC, its staff, and industry stakeholders have been working with the Georgia Department of Human Resources to enable Lifeline providers in Georgia to access such databases for the limited purpose of confirming that their Lifeline applicants are qualified to receive Lifeline-supported service. During a meeting of that group held on May 14, the Department of Human Resources reported that it is currently involved in other projects, did not have immediately available committed budget resources for such database access, and that it continue to address this matter after July 1, 2012.

Ms. Marlene H. Dortch  
Page 2  
May 15, 2012

We understand that on May 11, 2012, TracFone Wireless, Inc. filed a request for postponement of the full certification implementation date. This letter is to advise you that the Georgia PSC supports that request for postponement, at least with respect to Georgia, and respectfully asks that the Commission postpone the June 1 full certification effective date so that low-income Georgia households do not lose their ability to enroll in Lifeline programs during the period that the PSC, the Department of Human Resources and the Lifeline provider industry continue to pursue suitable database access arrangements. We are hopeful that through the cooperative efforts of the PSC, the Department of Human Resources, and the participating Lifeline providers, ETCs providing Lifeline service in Georgia will within a year have access to eligibility databases which will obviate the need for full certification in Georgia.

Thank you for your consideration.

Sincerely

A handwritten signature in black ink, appearing to read 'Tim G. Echols', written over a stylized five-pointed star symbol.

Tim G. Echols  
Chairman

Cc: Hon. Julius Genachowski  
Hon. Mignon Clyburn  
Hon. Robert M. McDowell  
Hon. Ajit Pai  
Hon. Jessica Rosenworcel  
Commissioner Clyde Reese, DHR